

demonstration is not made and class IV wells.

(f) When a State UIC program is fully approved by EPA to regulate all classes of injections, the State assumes primary enforcement authority under section 1422(b)(3) of SDWA. EPA retains primary enforcement responsibility whenever the State program is disapproved in whole or in part. States which have partially approved programs have authority to enforce any violation of the approved portion of their program. EPA retains authority to enforce violations of State underground injection control programs, except that, when a State has a fully approved program, EPA will not take enforcement actions without providing prior notice to the State and otherwise complying with section 1423 of SDWA.

(g) A State can assume primary enforcement responsibility for the UIC program, notwithstanding §145.21(3), when the State program is unable to regulate activities on Indian lands within the State. EPA will administer the program on Indian lands if the State does not seek this authority.

(h) To establish a Federal UIC Class VI program in States not seeking full UIC primary enforcement responsibility approval, pursuant to the SDWA section 1422(c), States shall, by September 6, 2011, submit to the Administrator a new or revised State UIC program complying with §§145.22 or 145.32 of this part. Beginning on September 6, 2011 the requirements of subpart H of part 146 of this chapter will be applicable and enforceable by EPA in each State that has not received approval of a new Class VI program application under section 1422 of the Safe Drinking Water Act or a revision of its UIC program under section 1422 of the Safe Drinking Water Act to incorporate subpart H of part 146. Following September 6, 2011, EPA will publish a list of the States where subpart H of part 146 has become applicable.

[48 FR 14202, Apr. 1, 1983, as amended at 53 FR 37412, Sept. 26, 1988; 75 FR 77290, Dec. 10, 2010]

**§ 145.22 Elements of a program submission.**

(a) Any State that seeks to administer a program under this part shall

submit to the Administrator at least three copies of a program submission. For Class VI programs, the entire submission can be sent electronically. The submission shall contain the following:

(1) A letter from the Governor of the State requesting program approval;

(2) A complete program description, as required by §145.23, describing how the State intends to carry out its responsibilities under this part;

(3) An Attorney General's statement as required by §145.24;

(4) A Memorandum of Agreement with the Regional Administrator as required by §145.25;

(5) Copies of all applicable State statutes and regulations, including those governing State administrative procedures;

(6) The showing required by §145.31(b) of the State's public participation activities prior to program submission.

(b) Within 30 days of receipt by EPA of a State program submission, EPA will notify the State whether its submission is complete. If EPA finds that a State's submission is complete, the statutory review period (*i.e.*, the period of time allotted for formal EPA review of a proposed State program under the Safe Drinking Water Act) shall be deemed to have begun on the date of receipt of the State's submission. If EPA finds that a State's submission is incomplete, the statutory review period shall not begin until all the necessary information is received by EPA.

(c) If the State's submission is materially changed during the statutory review period, the statutory review period shall begin again upon receipt of the revised submission.

(d) The State and EPA may extend the statutory review period by agreement.

[48 FR 14202, Apr. 1, 1983, as amended at 75 FR 77290, Dec. 10, 2010]

**§ 145.23 Program description.**

Any State that seeks to administer a program under this part shall submit a description of the program it proposes to administer in lieu of the Federal program under State law or under an interstate compact. For Class VI programs, the entire submission can be sent electronically. The program description shall include:

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(a) A description in narrative form of the scope, structure, coverage and processes of the State program.

(b) A description (including organization charts) of the organization and structure of the State agency or agencies which will have responsibility for administering the program, including the information listed below. If more than one agency is responsible for administration of a program, each agency must have statewide jurisdiction over a class of activities. The responsibilities of each agency must be delineated, their procedures for coordination set forth, and an agency may be designated as a "lead agency" to facilitate communications between EPA and the State agencies having program responsibility. When the State proposes to administer a program of greater scope of coverage than is required by Federal law, the information provided under this paragraph shall indicate the resources dedicated to administering the Federally required portion of the program.

(1) A description of the State agency staff who will carry out the State program, including the number, occupations, and general duties of the employees. The State need not submit complete job descriptions for every employee carrying out the State program.

(2) An itemization of the estimated costs of establishing and administering the program for the first two years after approval, including cost of the personnel listed in paragraph (b)(1) of this section, cost of administrative support, and cost of technical support.

(3) An itemization of the sources and amounts of funding, including an estimate of Federal grant money, available to the State Director for the first two years after approval to meet the costs listed in paragraph (b)(2) of this section, identifying any restrictions or limitations upon this funding.

(c) A description of applicable State procedures, including permitting procedures and any State administrative or judicial review procedures.

(d) Copies of the permit form(s), application form(s), reporting form(s), and manifest format the State intends to employ in its program. Forms used by States need not be identical to the forms used by EPA but should require

the same basic information. The State need not provide copies of uniform national forms it intends to use but should note its intention to use such forms. For Class VI programs, submit copies of the current forms in use by the State, if any.

(e) A complete description of the State's compliance tracking and enforcement program.

(f) A State UIC program description shall also include:

(1) A schedule for issuing permits within five years after program approval to all injection wells within the State which are required to have permits under this part and 40 CFR part 144. For Class VI programs, a schedule for issuing permits within two years after program approval;

(2) The priorities (according to criteria set forth in §146.9 of this chapter) for issuing permits, including the number of permits in each class of injection well which will be issued each year during the first five years of program operation. For Class VI programs, include the priorities for issuing permits and the number of permits which will be issued during the first two years of program operation;

(3) A description of how the Director will implement the mechanical integrity testing requirements of §146.8 of this chapter, or, for Class VI wells, the mechanical integrity testing requirements of §146.89 of this chapter, including the frequency of testing that will be required and the number of tests that will be reviewed by the Director each year;

(4) A description of the procedure whereby the Director will notify owners or operators of injection wells of the requirement that they apply for and obtain a permit. The notification required by this paragraph shall require applications to be filed as soon as possible, but not later than four years after program approval for all injection wells requiring a permit. For Class VI programs approved before December 10, 2011, a description of the procedure whereby the Director will notify owners or operators of any Class I wells previously permitted for the purpose of geologic sequestration or Class V experimental technology wells no longer being used for experimental purposes

that will continue injection of carbon dioxide for the purpose of GS that they must apply for a Class VI permit pursuant to requirements at §146.81(c) within one year of December 10, 2011. For Class VI programs approved following December 10, 2011, a description of the procedure whereby the Director will notify owners or operators of any Class I wells previously permitted for the purpose of geologic sequestration or Class V experimental technology wells no longer being used for experimental purposes that will continue injection of carbon dioxide for the purpose of GS or Class VI wells previously permitted by EPA that they must apply for a Class VI permit pursuant to requirements at §146.81(c) within one year of Class VI program approval;

(5) A description of any rule under which the Director proposes to authorize injections, including the text of the rule;

(6) For any existing enhanced recovery and hydrocarbon storage wells which the Director proposes to authorize by rule, a description of the procedure for reviewing the wells for compliance with applicable monitoring, reporting, construction, and financial responsibility requirements of §§144.51 and 144.52, and 40 CFR part 146;

(7) A description of and schedule for the State's program to establish and maintain a current inventory of injection wells which must be permitted under State law;

(8) Where the Director had designated underground sources of drinking water in accordance with §144.7(a), a description and identification of all such designated sources in the State;

(9) A description of aquifers, or parts thereof, which the Director has identified under §144.7(b) as exempted aquifers, and a summary of supporting data. For Class VI programs only, States must incorporate information related to any EPA approved exemptions expanding the areal extent of existing aquifer exemptions for Class II enhanced oil recovery or enhanced gas recovery wells transitioning to Class VI injection for geologic sequestration pursuant to requirements at §§146.4(d) and 144.7(d), including a summary of supporting data and the specific location of the aquifer exemption expansion.

Other than expansions of the areal extent of Class II enhanced oil recovery or enhanced gas recovery well aquifer exemptions for Class VI injection, new aquifer exemptions shall not be issued for Class VI wells or injection activities;

(10) A description of and schedule for the State's program to ban Class IV wells prohibited under §144.13; and

(11) A description of and schedule for the State's program to establish an inventory of Class V wells and to assess the need for a program to regulate Class V wells.

(12) *For Class V programs only.* A description of and a schedule for the State's plan to identify and delineate other sensitive ground water areas. States should consider geologic and hydrogeologic settings, ground water flow and occurrence, topographic and geographic features, depth to ground water, significance as a drinking water source, prevailing land use practices and any other existing information relating to the susceptibility of ground water to contamination from Class V injection wells when developing their plan. Within the schedule for the plan, States must commit to: completing all delineations of other sensitive ground water areas by no later than Jan. 1, 2004; making these delineation available to the public; implementing the Class V regulations, effective April 5, 2000, in these delineated areas by no later than January 1, 2007. Alternately, if a State chooses not to identify other sensitive ground water areas, the requirements for motor vehicle waste disposal wells would apply statewide by January 1, 2007.

(13) For Class VI programs, a description of the procedure whereby the Director must notify, in writing, any States, Tribes, and Territories of any permit applications for geologic sequestration of carbon dioxide wherein the area of review crosses State, Tribal, or Territory boundaries, resulting in the need for trans-boundary coordination related to an injection operation.

[48 FR 14202, Apr. 1, 1983, as amended at 64 FR 68572, Dec. 7, 1999; 75 FR 77290, Dec. 10, 2010]